

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Ralph R. Nelson

Plaintiff

v.

Case No. 04 10845 NMG  
DISTRICT OF MASSACHUSETTS

Judge Nathaniel M. Gorton

Tonya Marie Coffey (Nelson), et al.

Defendants

PLAINTIFFS ANSWERS TO MOTION TO DISMISS FILED FOR DEFENDANTS TOM  
HAYES AND CHINA WIDENER

I. Introduction

Attorney Blair states, "Plaintiff never mentions defendant Hayes anywhere in the complaint." This is only partially accurate.

As the individual to whom the responsibility of being the steward of the Ohio Department of Job and Family Services was given, defendant Hayes's name is referenced every time Ohio child support is referenced. The Director's own mission statement validates the stewardship breaches.

The Ohio Department of Job and family Services mission statement reads as follows:

The Ohio Department of Job and Family Services was formed by the merger of the Department of Human Services and Bureau of Employment Services. It develops and overseas programs that provide healthcare, employment and economic assistance, child support, and services to families and children. The programs and services offered are designed to help Ohioan's be healthy and safe, while gaining and maintaining independence, and are delivered at the local level *in a manner that recognizes and preserves individual rights*, responsibilities and dignity.

A Father's rights are a fundamental right, and are itself of value. Not once, has my fundamental rights as a Father ever been considered by the Ohio Department of Job and *Family Services*.

Let me remind you. 1. While I was at work, very bad people entered my house and abducted my children. Previously, they filed a fraudulent domestic violence charge against me to keep me from getting my kids back. The night my children were abducted, I received a phone call from a man I had never heard from before telling me he was going to "fight (me) for my kids."

Please . . . consider what that must have been like.

Four years later, my former spouse confesses to fabricating the domestic violence charge. She then implies in her deposition that the man who helped her take my children is into Internet pornography . . . And still no help from anyone.

Please . . . consider what that must have been like.

This same individual refused to allow me to speak to my children whenever I called on the telephone, and maliciously interfered with the children's attempts to communicate with their Father via the internet. And the Clark County Court of Common Pleas would not help me.

Please . . . consider what that must be like.

And on April 8, 2004, at 11:48 a.m., this same individual calls my apartment to gloat about what he has been able to do to me.

So please Mr. Hayes, explain to me how my fundamental rights have been preserved.

Father's rights are a fundamental right, and are itself of value. This breach of fiduciary duty violates the intangible Rights Doctrine, which states:

This deprivation of abstract and intangible political and civil rights of the general citizenry constitutes a violation of the intangible rights doctrine.

As part of the mission statement for ODJFS, under a section entitled Guiding Principles, it states:

ODJFS will provide support and oversight to individuals and families.

Again, a breach of fiduciary duty.

As part of the mission statement for ODJFS under a section entitled Outcomes, it states:

Outcome 1: Children will grow up safe.

My children's Guardian Ad Litem stated in his report that my eldest daughter was "continuing to have problems" with the absence of her father from her life. The Clark County Court of Common Pleas stated, on two different occasions, that there was no reason why my children should not be able see their Father. And yet, absolutely no one would assist us with the interference problems we were encountering. If children are taken, and no one does anything - just how safe are the children in Ohio?

Again, a breach of fiduciary duty based upon ODJFS' mission statement.

The Eight Circuit Court reasoned in United States v. States that a citizens right of fair suffrage is itself of value. Since then, at least the Fourth and Seventh Circuits have recognized an intangible rights doctrine. Under this doctrine, a public official may be punished under 18 U.S.C 1341 when his scheme to defraud has as its objective the deprivation of abstract and intangible political and

civil rights of the general citizenry. A Fathers rights are a fundamental right.

II.

A. Civ. R. 12(b)(1) - Subject Matter Jurisdiction

Attorney Blair states: When the question to be considered is one involving the jurisdiction of a federal court :

1. "Jurisdiction must be shown affirmatively"

I demonstrated proper jurisdiction in my complaint. All predicate offenses described in my complaint fall within the parameter of proper jurisdiction for this Court.

2. "Showing is not made by drawing from the pleadings *inferences* favorable to the party asserting it."

Inferences? All I did in my complaint was simply follow the paper trail. There are no inferences when following the paper trail. There are no inferences with documentation bearing the names and signatures of the defendants. There are no inferences when quoting statements made while under oath during depositions. This statement is just not accurate.

B. Civ.R. (b)(2) - Personal jurisdiction

Section 1391 (b)(2) provides:

- (b)(2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated.

These issues I have been attempting to resolve have been on going since October 1994 - when my children were abducted. Sixty-four months. For fifty-seven months these events occurred in Ohio. For sixty-four months these events occurred in Massachusetts. More than half of these events occurred in Massachusetts. Add to this the fact that two of the biggest issues with this complaint, the predicate crimes committed while I was employed at Beth Israel hospital, and the predicate crimes that were committed while I was employed at Brockton hospital, BOTH occurred IN Massachusetts. Clearly, a substantial part of the events giving rise to the claims occurred, and a substantial part of the property that is the subject of the action is situated in Massachusetts. Beth Israel hospital is situated in Massachusetts. Brockton hospital is situated in Massachusetts. My employment is situated in Massachusetts. The Massachusetts child support agency is in Massachusetts. My witnesses are situated in Massachusetts. My protection from my former spouse is situated in Massachusetts.

And I ask this Court to consider this: The facts prove, and I will demonstrate in court, the reality that my former spouse has (will) physically beat me (usually to the back of the head), knowing that

I am too much of a man to strike back. She will then call the police while morphing into her victim's persona. This modus operandi makes her dangerous to me. The reality that this behavior has served her so well in the past leads me to believe there will be no change in the pattern of behavior. My safety comes from physically being in the State of Massachusetts.

C. Venue

The RICO Act's venue statute provides:

- (a) Any civil action proceeding under this chapter [18 USCS 1961 et seq.] against any person may be instituted in the district court of the United States for any district in which such person resides, is found, *has an agent, or transacts his affairs.*

When I stood in the Massachusetts DOR/CSE office and asked the staff why they would follow an Ohio order sent to them, when they knew the accuracy of the order was proven to be in question, the staff's response to me was "We have no choice. We have to do what it says because it's the law." Clearly, the Ohio Department of Job and Family Services is able to conduct their business affairs at will and with ease in a seamless fashion in the State of Massachusetts. This creates a seamless boundary between the two states. And since both States are under the stewardship of the same national Commissioner, jurisdiction and venue are proper for this Court.

Clearly, the Ohio defendants and their agents transact their affairs seamlessly in the District of Massachusetts.

Under 28 U.S.C. 1391(b), a civil RICO action may be brought in the district in which the claim arose. e.g., Dunn v. People, No. 82-c-4133 (N.D. ILL Oct 25, 1982), Farmers Bank of State of Del. v. Bell Mortgage Corp., 452 F.Supp. 1278, 1280 (D.Del, 1978)

If venue is proper as to one defendant, the plaintiff may obtain a court order to bring co-conspirators into the action, even though venue as to them would not have been originally appropriate. Under 18 U.S.C 1965(b), where it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may issue a summons for them and the Marshall may serve that summons nationwide. Similarly, subpoenas for witnesses can be served nationwide if the court orders such process upon a showing of good cause. 18 U.S.C 1965(c).

D. Civ. R. (b)(6) - Failure to state a claim upon which relief can be granted.

Attorney Blair states, "dismissal is proper when it appears beyond that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief."

Prove no set of facts? The paper trail proves the facts. All the facts presented in the complaint were proven. And the facts clearly prove the wrongdoings. Facts proved with documentation bearing the defendants names and signatures. There is absolutely no way anyone can say that the

paper trail, the documentation bearing the names and signatures of the defendants, as well as, statements made under oath in deposition are not proof. This is just not accurate.

### III Legal Argument

A. Attorney Blair argues, " This is an action for money damages in federal court against an agency or department of the State of Ohio."

This is not accurate. This is a complaint that includes two individuals who were both given responsibilities, which greatly effect children. Both were provided mission statements and resources intended to help children. And both have articulated they are unable to abide by their mission statements. Both have articulated that they see themselves as bill collectors, not family advocates. This ideology is having grave consequences upon our families. For this reason, these two defendants must be present for any resolution that includes fixing the system.

Bad people enter my house while I am at work and abduct my children - and no one can help?

My children are growing up not knowing who their Father is - and no one can help?

My children's Mother has confessed to filing fraudulent domestic violence charges against their Father - and no one can help?

Both these defendants are in a position to significantly improve the lives of our children, by fixing the system for which they are the stewards. This case clearly demonstrates the system has failed our children. The people to hold accountable in such a situation must be the stewards of the system.

Respectfully Submitted,



Ralph R. Nelson  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was mailed by ordinary U.S. Mail, postage prepaid, to the undersigned, this 11<sup>th</sup> day of October, 2004.

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